S.B.Civil Writ Petition NO.5373/2004

Himmat Singh
vs

Halu Singh & Ors.

DATE OF ORDER : - 25.5.2005

HON'BLE MR. PRAKASH TATIA,J.

Mr. JK Bhaiya, for the petitioner.
None present for the respondents.

Heard learned counsel for the petitioner. None present for the respondent despite service and nobody appeared even on 23rd May, 2005.

This writ petition is against the order dated 20th Sept., 2004 by which the trial court allowed the objection of the plaintiff about the late filing of the written statement by the defendant no.1 and ordered to put the written statement filed by the petitioner to be out of record. It appears from the order dated 20th Sept., 2004 itself that the written statement was filed on 29th March, 2004 and the trial court entertained the objection of the plaintiff on the ground that the written statement was filed after expiry of period of 90 days without considering the fact that objection itself has been raised after delay.

Hence, the written statement has already been filed. Therefore, there was no reason for the trial court to put it out of record so as to deny the total opportunity of hearing to the defendant.

In view of the above, the writ petition of the petitioner is allowed and the order date 20th Sept., 2004 so far as it relates to putting the written statement out of record is set aside.

(Prakash Tatia), J.

cpgoyal/-